# MONTANA LEGISLATIVE HISTORY

Chapter 121 19 74

Bill H 593 S _____ Original bill & history ____C

| H. Committee on State Administration - 1973 | | | S. Committee on Executive Reorganization - 19 | | |
|---|---|---|---|---|---|
| Hearing Date(s) | Mar 08 | ✓C | Hearing Date(s) | Feb 13 | ✓C |
| | | ____C | | | ____C |
| | | ____C | | | ____C |
| | | ____C | | | ____C |
| Date Out | Mar 08 | ✓C | | Feb 13 | ____C |

24 pages follow giving the Section-by-Section proposed disposition. If needed, contact State Law Library.

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

STATE ADMINISTRATION COMMITTEE

March 8, 1973

The State Administration Committee meeting was called to order this date with Chairman Brand presiding. All members were present.

The following bills were before the committee for consideration:

HB 593...Rep. Marbut, sponsor, explained this bill to the committee. Mr. George Bousliman also explained this bill and proposed to amend HB 593 on page 4, section 2, subsection (4), line 5 through 8 by striking all the material contained therein. Mr. Ted Carkulis and Mr. Doyle Saxby testified as proponents. There were no opponents.

HB 592...Rep. Marbut, sponsor, presented the bill to the committee. Mr. George Bousliman and Mr. Tom Goosh testified as proponents. There were no opponents.

The following actions were taken in executive session:

HB 592...Rep. Hageman moved HB 592 DO PASS. The motion passed unanimously.

HB 593...Rep. Menahan moved HB 593 DO PASS. Rep. Greely made a substitute motion that HB 593 be amended on page 4, section 2, subsection (4), line 5 through 9 by striking all the material contained therein, and as so amended DO PASS. The motion passed unanimously.

HB 598...Rep. Brand moved HB 598 BE HELD FOR ONE YEAR. The motion passed unanimously.

HB 599...Rep. Ulmer moved HB 599 BE HELD FOR ONE YEAR. The motion passed unanimously.

There being no further business, the meeting adjourned.

Joe Brand

JOE BRAND, CHAIRMAN

jb

HB 592

# RECODIFICATION OF THE LAWS OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

This is an explanation of the proposed recodification of the laws pertaining to the Department of Social and Rehabilitation Services. A recodification is required in order to reflect the changes made by the Executive Reorganization Act of 1971. Briefly stated, the Reorganization Act:

--Created a Department of Social and Rehabilitation Services with a director as department head;

--Abolished the State Department of Public Welfare and its units, the State Board of Public Welfare and the position of State Administrator of Public Welfare, and transferred their functions to the Department of Social and Rehabilitation Services, except the quasi-judicial functions found in Title 71, Chapters 2 through 7, 12, 14, and 15, R.C.M. 1947, which were transferred to the Board of Social and Rehabilitation Appeals in Section 82A-1907;

--Abolished the Division of Vocational Rehabilitation and transferred its functions to the Department of Social and Rehabilitation Services;

--Abolished the Commission on Aging and transferred its functions to the Department of Social and Rehabilitation Services, except its quasi-judicial functions, found in the State Plan for the Aging, which were transferred to the Board of Social and Rehabilitation Appeals;

--Abolished the Council on Human Resources and transferred its functions to the Department of Social and Rehabilitation Services;

--Transferred the functions of the State Board of Education, pertaining to vocational rehabilitation, found in Title 41, Chapter 8, R.C.M. 1947, to the Department of Social and Rehabilitation Services, except the quasi-judicial functions which were transferred to the Board of

Social and Rehabilitation Appeals;

--Continued the county departments of public welfare and the county boards of public welfare under the supervision of the department of Social and Rehabilitation Services;

--Continued the Veterans' Welfare Commission of the State of Montana and its functions and renamed it the Board of Veterans' Affairs. The Board was transferred to the Department of Social and Rehabilitation Services for administrative purposes.

--Abolished the Day Care Advisory Council, the Personnel Committee of the Department of Public Welfare, the Educational Leave Committee of the Department of Public Welfare, the Advisory Committee on Children and Youth of the Council on Human Resources, and the Medical Assistance Advisory Council.

Laws governing the Department of Social and Rehabilitation Services are primarily found in Title 71, but are also found in Titles 10, 41, 61, 77, 82, 82A, and 93, R.C.M. 1947.

In these laws many sections contain archaic and obsolete language; it is recommended that these sections be changed to reflect modern and simplified language and that the obsolete parts be stricken.

Generally, the aim of the recodification is merely to reflect the changes made in the Reorganization Act. Some sections were renumbered in order to place them in a more appropriate location in the Revised Codes. In other cases, all or some of the provisions in a section were moved either to another section or to a new section, because logically they belonged in the new location.

Some sections were found to be superseded by other laws, including the Reorganization Act, duplicated by other sections, or obsolete and no longer needed and are, therefore, proposed to be repealed.

In this recodification, a method of amending sections to reflect the

changes made by the Reorganization Act by merely referring to the section number and instructing the codifier to change the agency name, has been used. This method of amending has been labeled by the Executive Reorganization staff as the "short method" of amending. It can be used when a mere change in nomenclature is required in an existing statute, to make the statute conform to the changes made by previous legislation, such as the Executive Reorganization Act of 1971. The statute has already been amended by implication. The way the "short method" works can be illustrated in the following example: the Reorganization Act abolished the State Department of Public Welfare, and transferred its functions to the newly created Department of Social and Rehabilitation Services. Therefore, in Section 10-703, R.C.M. 1947, the references to "State Department of Public Welfare" can be changed by merely stating that the term "Department of Social and Rehabilitation Services" shall be substituted, in Section 10-703, for the term "State Department of Public Welfare" or "Department of Public Welfare."

Many sections cannot be amended by using the "short method," because other changes must be made in the section. However, by using the short method, it has been estimated that several thousand dollars will be saved in typing and proofing time, and in the printing of the session laws.

The legal staff of the Executive Reorganization Office has thoroughly researched the legality of using this method of amending sections, and is convinced that there is no legal barrier to utilizing this method. The Attorney General was asked for an opinion on the constitutional validity of using the "short method" of amending, and agreed that the method may be legally used, as has been done in this recodification bill.

Altogether, 42 sections are proposed to be amended by printing them at length, 54 sections are proposed to be amended by using the "short method" of

amending, and 50 sections would be repealed by this recodification.

A section-by-section indication of the proposed disposition of each section of the laws of the Department of Social and Rehabilitation Services is contained in the reference table which follows.

MINUTES OF THE MEETING
EXECUTIVE REORGANIZATION COMMITTEE
MONTANA STATE SENATE

February 13, 1974

The twelfth meeting of the Executive Reorganization Committee was called to order by Chairman Keenan on February 13, 1974 in Room 402 of the State Capitol Building at 12 Noon.

ROLL CALL: All members were present with the exception of Senator McOmber.

CONSIDERATION AND DISPOSITION OF SENATE BILL 461: Margaret Borg, staff attorney from the Legislative Council presented the proposed amendments to this bill. These amendments merely reinsert four sections which were to be deleted.

Senator Siderius moved to adopt the proposed amendments, seconded by Senator Goodheart. Carried. Senator Siderius moved that Senate Bill 461 DO PASS AS AMENDED, seconded by Senator Deschamps. Unanimous.

CONSIDERATION AND DISPOSITION OF HOUSE BILL 593: Miss Borg stated that these amendments reflect the 1973 update. Senator Deschamps moved that these amendments be adopted. Seconded by Senator Story. Carried. Senator Deschamps moved that House Bill 593 BE CONCURRED IN AS AMENDED. Seconded by Senator Goodheart. Unanimous.

CONSIDERATION OF HOUSE BILL 595: Margaret Borg had the proposed amendments to reflect the 1973 update. Senator Siderius moved that any action on House Bill 595 be deferred until the amendments can be studied. Seconded by Senator Rosell. Unanimous.

Friday, February 15, 1974 Senate Bill 87 and Senate Bill 625 will be heard with action taken.

Meeting adjourned.

Keenan
SENATOR P. J. KEENAN, Chairman

Section 93. Section 95-2226, R.C.M. 1947, is amended to read as follows:

"95-2226. **Sheriff's responsibility — cancellation or revocation of furlough.** (1) The sheriff of the county to which the prisoner has been released *is* responsible for the activities of the prisoner according to the rules approved by the board. The sheriff shall keep the warden informed *of the prisoner's activities.*

(2) If any prisoner released from actual prison confinement under the furlough program *fails* to comply with the rules of the furlough program, *the* furlough shall be canceled and *the* prisoner shall be returned to prison to complete his sentence. *A* prisoner *may not* be returned to prison to complete his sentence without first being charged with a violation of the rules of the furlough program in the district court of the county in which *the* violation took place. *The* prisoner entitled to have counsel appointed to represent him at *the* hearing. *However,* if *the* prisoner, *except where* disabled from working *because of a* temporary illness, is unemployed for a period of thirty (30) days or more (after his availability for employment is reported in writing by the sheriff of the county to which *the* prisoner is released, to the *department of labor and industry's* office serving *the* area, and to the union to which *the* prisoner belongs, if any) the warden, upon request of *the* sheriff and upon a showing by the sheriff of *the* county in the district court *either* that: *(a) the* employee has been so unemployed, *(b) the* prisoner has become so disabled that he is unemployable, or *(c) the* prisoner is on an education furlough and *the* prisoner has demonstrated for a period of six (6) weeks or more that he is unable to benefit from *the* schooling or training, shall revoke *the* furlough and *the* prisoner shall be returned to the prison."

Section 94. Section 95-2305, R.C.M. 1947, is amended to read as follows:

"95-2305. **Proceedings upon finding of lack of mental fitness.** If it is found that defendant is mentally fit as provided in section 95-2304, the sheriff must execute the judgment; but if it is found that he lacks fitness, the execution of judgment must be suspended and the court shall commit him to the custody of the superintendent of *Warm Springs* state hospital, to be placed in an appropriate institution of the department of institutions for so long as *the* lack of fitness *endures.* When the court, on its own motion or upon application of the superintendent of *Warm Springs* state hospital, or the county prosecuting officer, or the defendant or his legal representative, determines after a hearing if a hearing is requested, that the defendant has regained fitness to proceed, the sheriff shall be directed by the court to carry out the execution. If, however, the court is of the view that so much time has elapsed since the commitment of the defendant, that it would be unjust to proceed with execution of the sentence, the court may suspend the execution of the sentence and may order the defendant to be discharged."

Section 95. Section 95-2311, R.C.M. 1947, is amended to read as follows:

"95-2311. **Hearings requested by other states — power of board of pardons and department of institutions to hold.** The board of pardons and the department of institutions *shall* hold such hearings as may be requested by any other party state pursuant to section 95-2308, subsection 4 (f) of the Western Interstate Corrections Compact."



Section 96. Sections 38-108(1), 38-117, 38-119, 38-406.1, 69-6402, 80-1404, 80-1407 through 80-1409, 80-2207, 80-2311, 80-2601 through 80-2603, 82-903, 82A-802, 82A-803, 82A-807, 95-3208, 94-9851, R.C.M. 1947, are repealed.

Approved March 11, 1974.

## CHAPTER NO. 121

AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Section 10-701, R.C.M. 1947, is amended to read as follows:

"10-701. **Definitions.** *As used in this act:*

*(1) "Person" includes* any individual, partnership, voluntary association, or corporation.

*(2) "Agency"* includes *a* person not related by blood or marriage to *a* minor child to be adopted. This act *does* not apply to the Montana *Children's Center.*

*(3) "State department" means the department of social and rehabilitation services provided for in Title 82A, chapter 19."*

Section 2. Section 10-801, R.C.M. 1947, is amended to read as follows:

"10-801. **Definitions.** *In this act:*

*(1) "Child" means a* person under twelve *(12)* years of age;

*(2)* "Day *care facility" means a* person, association, or place, incorporated or unincorporated, that receives for care during the day or part of the day three *(3)* or more children of separate families and continues this type of care for five *(5)* or more consecutive weeks. It *does not include a* person who limits care to children who are related to him by blood or marriage or under his legal guardianship, and all group facilities established chiefly for educational purposes;

*(3)* "Day *care center" means a* day care facility that receives seven *(7)* or more children for care for five *(5)* or more hours of the day for five *(5)* or more consecutive weeks. It may include facilities known as child care centers, nursery schools, day nurseries, and centers for the mentally retarded;

*(4) "State department" or "department" means the department of social and rehabilitation services provided for in Title 82A, chapter 19."*

Section 3. Section 10-803, R.C.M. 1947, is amended to read as follows:

"10-803. **Standards for child care.** The state *department* shall prescribe and publish minimum standards for a license. In developing these standards the department shall seek the advice and assistance of the *department* of health *and environmental sciences,* and superintendent of public instruction, representatives of day care facilities, specialists in child care, and representatives of parent groups who use the services of day care facilities. The standards may pertain to:

*(1) Character,* suitability, and qualifications of *an* applicant, and other persons directly responsible for the care of children;

*(2) The* number of individuals or staff required for adequate supervision and care of children in day care centers;

*(3) Child* care programs and practices essential to the protection of health, safety, development, and well-being of children;

*(4) Adequate* and appropriate admission policies;

*(5) Adequacy* of physical facilities and equipment;

*(6) General* financial ability and competence of *an* applicant to provide necessary care for children and maintain prescribed standards."

Section 4. Section 10-804, R.C.M. 1947, is amended to read as follows:

"10-804. **Fire safety — certification required.** The *department of justice* shall adopt and enforce rules for the protection of children in care facilities from fire hazards, and arrange for such inspections and investigations as *it considers* necessary. Each applicant for a license to operate a day care center shall submit to the department of *social and rehabilitation services* a certificate of approval indicating that fire safety rules have been met before a license can be issued. *In* all non-fire-resistant homes two *(2)* stories or more in height with ten *(10)* or more children, automatic sprinkler systems acceptable to the *department of justice* shall be installed, with *the department of justice* to issue for the information and use of the *department of social and rehabilitation services,* certificates of compliance with fire *rules* and standards applicable to the facilities."

Section 5. Section 10-805, R.C.M. 1947, is amended to read as follows:

"10-805. **Health protection — certificate required by department of health and environmental sciences.** The *department* of health *and environmental sciences* shall adopt rules for the protection of children in day care centers from the health hazards of overcrowding, food preparation, and communicable diseases and arrange for *any* inspections and investigations it *considers* necessary. Each applicant for a license to operate a day care center shall submit to the *department of social and rehabilitation services* a certificate of approval that *the department* of health *and environmental sciences* rules have been met before a license can be issued."

Section 6. Section 10-806, R.C.M. 1947, is amended to read as follows:



"10-806. **Licenses issued by the state department — rules — minimum requirements of licensees.** *(1)* The state *department shall* issue licenses to persons to receive into a day care facility, children for care during the day or part of a day. Application for a license shall be made to the state *department* through the county department of public welfare in the county in which the applicant lives, on forms prescribed by the state *department.* Upon receipt of the application, the county welfare department, shall, within a reasonable time, *investigate* to determine whether a license should be granted.

*(2)* The state *department* shall prescribe the conditions upon which licenses are issued, and *shall adopt* rules for the conduct of *the* facilities *which* are consistent with the welfare of the children received. *The* state *department* must issue licenses to agencies meeting the following minimum requirements;

(a) *The* applicant, his employees, and all those persons who will come in direct contact with the children *are* of good moral character

(b) *The* staff of the facility *is* sufficient in number to provide adequate supervision and care of the children admitted

(c) *Essential* programs and practices carried on by the facility staff *are* developed and carried out with due regard for the protection of the health, safety, development, and well-being of the children

(d) *Applicant* and staff *are* qualified by practical experience or education or training, to give good care and treatment to the children

(e) *Physical* facilities *are* of a kind that can meet the minimum state standards to provide for the protection of the children from fire and health hazards

(f) *Intake* records *are* kept on each child admitted for care

(g) *The* applicant and staff *limits* admissions to the maximum number indicated on the current license

(h) *The* applicant will arrange for the necessary precautions to guard against communicable diseases

*(i) Public liability insurance and fire insurance is currently in force for the protection of the operator, his staff, and the facility."*

Section 7. Section 10-807, R.C.M. 1947, is amended to read as follows:

"10-807. **Provisional license.** The *department of social and rehabilitation services* may, in its discretion, issue a provisional license for a period of not more than six *(6)* months if it finds that a substandard day care facility is attempting to meet the minimum standards. The requirement that a day care center shall be certified by the *department of justice* and the *department* of health *and environmental sciences* may not be waived."

Section 8. Section 10-810, R.C.M. 1947, is amended to read as follows:

"10-810. **License — denial — nonrenewal — revocation — hearing.** The *department,* after notice and opportunity for hearing to the appli-

cant *or* licensee, *may* deny, suspend, or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this law."

Section 9. Section 10-811, R.C.M. 1947, is amended to read as follows:

"10-811. **Violations.** *When* the *department* is advised or has reason to believe that *a* person, group of persons, or corporation is operating a child care facility without a license, it shall make an investigation to ascertain the facts. If it finds that *the* child care facility is being, or has been, operated without a license, it may report the results of its investigation to the attorney general or the county attorney of the county where the child care facility is being operated for prosecution and request that an injunction be issued against the facility until a license is issued. In addition, the state *department* may institute *any* action necessary to enforce compliance with this act or any order, rule, or regulation of the *state department under* this act, or to obtain a judicial interpretation of any of the foregoing. The *department may* institute action by its own attorney or counsel, *or may* call upon any county attorney to represent it in the district court of the county in which the action is taken, or the attorney general to represent it on appeal to the supreme court of Montana, or it may associate its own counsel with either in any court."

Section 10. Section 41-801, R.C.M. 1947, is renumbered Section 71-1801, and is amended to read as follows:

"*71-1801.* **Definitions.** As used in this *chapter*:

*(1)* "Employment handicap" means a physical or mental condition which constitutes, contributes to or if not corrected, will probably result in an obstruction to occupational performance;

*(2)* "Disabled individual" means *a* person with an impairment of a physical or mental nature that can be diagnosed by a physician or appropriate specialist;

*(3)* "Vocational rehabilitation" and "vocational rehabilitation services" mean services provided directly or through public or private instrumentalities, found by the *state department of social and rehabilitation services* to be necessary to compensate a disabled individual for his employment handicap, and to enable him in so far as possible to engage in a remunerative occupation including, but not limited to, medical and vocational diagnosis, vocational guidance, counseling and placement, rehabilitation training, physical restoration, transportation, occupational licenses, customary occupational tools and equipment, maintenance, and training books and materials, facilities for groups of handicapped, service to family members and follow-up service;

*(4)* "Rehabilitation training" means all necessary training provided to a disabled individual to compensate for his employment handicap including, but not limited to, manual, preconditioning, prevocational, vocational, and supplementary training and training provided for the purpose of achieving broader or more remunerative skills and capacities;

*(5)* "Physical restoration" means any medical, surgical or therapeutic treatment necessary to correct or substantially reduce a disabled individual's employment handicap within a reasonable length of time including, but not limited to, medical, psychiatric, dental and surgical treatment, nursing services, hospital care, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment for acute or transitory conditions, (except medical care for acute conditions during the course of a rehabilitation plan which, if not corrected, would constitute a hazard to plan completion);



*(6)* "Prosthetic appliance" means *an* artificial device necessary to support or take the place of a part of the body or to increase the acuity of a sense organ;

*(7)* "Occupational licenses" means *a* license, permit or other written authority required by any governmental unit to be obtained in order to engage in an occupation;

*(8)* "Maintenance" means money payments not exceeding the estimated cost of subsistence during vocational rehabilitation;

*(9)* "Regulations" means regulations made by the state *department;*

*(10)* "Rehabilitation plan" means a plan for providing services that will render a disabled individual employable and is jointly developed by the client and *the state department.*"

Section 11. Section 41-803, R.C.M. 1947, is renumbered Section 71-1802, and is amended to read as follows:

"*71-1802.* **State department duties.** *The state department:*

*(1) Shall adopt rules governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, and investigation and determination thereof, for vocational rehabilitation services, procedures for fair hearings and any* other *rules* necessary to carry out this act;

*(2) Except as otherwise provided by law, shall provide vocational rehabilitation services to eligible disabled individuals;*

*(3) Shall* take *any* other action *it considers* necessary or appropriate to carry out the purposes of this act;

*(4) May cooperate with other agencies and institutions, both public and private, in providing for vocational rehabilitation of disabled individuals, in studying the problems involved in vocational rehabilitation, and establishing, developing, and providing necessary programs, facilities, and services;*

*(5) May conduct research and compile statistics relating to the vocational rehabilitation of disabled individuals;*

*(6) May accept and use gifts to carry out this chapter. Gifts made under conditions which the department considers proper and consistent with this chapter may be accepted, and shall be held, invested, reinvested, and used in accordance with the conditions of the gift.*"

Section 12. Section 41-805, R.C.M. 1947, is renumbered Section 71-1803, and is amended to read as follows:

"*71-1803.* **Cooperation with federal government.** The *state department* shall *cooperate*, pursuant to agreements, with the federal government in carrying out the purposes of any federal statutes, pertaining to rehabilitation and *may* adopt such methods of administration as are found by the federal government to be necessary for the proper and efficient operation of such agreements or plans for rehabilitation and to comply with such conditions as may be necessary to secure the full benefits of such federal statutes."

Section 13. Section 41-806, R.C.M. 1947, is renumbered Section 71-1804, and is amended to read as follows:

"*71-1804.* **Receipt and disbursement of rehabilitation funds.** The state treasurer is the custodian of all funds received from the federal government for the purpose of carrying out any federal statutes pertaining to rehabilitation. The state treasurer shall make disbursements from such funds and from all state funds available for rehabilitation purposes upon certification *of the state department.*"

Section 14. Section 41-808, R.C.M. 1947, is renumbered Section 71-1805, and is amended to read as follows:

"*71-1805.* **Eligibility for vocational rehabilitation.** Vocational rehabilitation services shall be provided to any disabled individual (1) who is in the state at the time of filing his application therefor and whose vocational rehabilitation, the *state department* determines after full investigation, can be satisfactorily achieved, or (2) who is eligible therefor under the terms of an agreement with another state or with the federal government. *Except* as otherwise provided by law or as specified in any agreement with the federal government with respect to classes of individuals certified to the state *department*, the following rehabilitation services shall be provided at public cost only to disabled individuals found to require financial assistance with respect thereto:

(a) Physical restoration;

(b) Transportation not provided to determine the eligibility of the individual for vocational rehabilitation services and the nature and extent of the services necessary;

(c) Occupational licenses;

(d) Customary occupational tools and equipment;

(e) Maintenance;

(f) Training books and materials."

Section 15. Section 41-810, R.C.M. 1947, is renumbered Section 71-1806, and is amended to read as follows:

"*71-1806.* **Hearings.** *An* individual applying for or receiving vocational rehabilitation who is aggrieved by any action or inaction of the *state department is* entitled, in accordance with regulations, to a fair hearing by the board *of social and rehabilitation appeals.*"

Section 16. Section 41-812, R.C.M. 1947, is renumbered Section 71-1807, and is amended to read as follows:



"*71-1807.* **Limitation of political activity.** *An* officer or employee engaged in the administration of the vocational rehabilitation program *may not* use his official authority or influence or permit the use of the vocational rehabilitation program for the purpose of interfering with an election or affecting the result thereof or for any partisan political purpose. *Any* such officer or employee *may not* take any active part in the management of political campaigns or participate in any political activity, *however* he *may* vote as he *pleases* and express his opinions as a citizen on all subjects. *Any* such officer or employee *may not* solicit or receive, nor *may* any such officer or employee be obliged to contribute or render, any service, assistance, subscription, assessment, or contribution for any political purpose. *An* officer or employee violating this provision *is* subject to discharge or suspension."

Section 17. Section 41-813, R.C.M. 1947, is renumbered Section 71-1808, and is amended to read as follows:

"*71-1808.* **Separability.** If any provision of this *chapter*, or the application thereof to any person or circumstance, is held invalid, the remainder of the *chapter*, and the application of *the* provision to other persons or circumstances *is* not affected thereby."

Section 18. Section 61-213, R.C.M. 1947, is amended to read as follows:

"61-213. **Confidential nature of record and proceedings.** (1) Unless the court shall otherwise order, all hearings held in proceedings under this act shall be confidential and shall be held in closed court without admittance of any person other than interested parties and their counsel.

(2) All papers and records pertaining to the adoption shall be kept as a permanent record of the court and withheld from inspection. No person shall have access to such records except on order of the judge of the court in which the decree of adoption was entered for good cause shown.

(3) All files and records pertaining to said adoption proceedings in the county departments of public welfare, *the state department of social and rehabilitation services* or any authorized agencies shall be confidential and withheld from inspection except upon order of court for good cause shown."

Section 19. There is a new section to be numbered 71-201.1, R.C.M. 1947, which reads as follows:

71-201.1. **Definition.** Unless the context requires otherwise, in Title 71:

(1) "State department" means the department of social and rehabilitation services provided for in Title 82A, chapter 19.

(2) "Public assistance" or "assistance" means any type of monetary or other assistance furnished under this title to a person by a state or county agency, regardless of the original source of the assistance.

Section 20. Section 71-210, R.C.M. 1947, is amended to read as follows:

"71-210. **Authority and activities of the state department.** *(1)* The state department *has* authority over and administration or supervision of all the purposes and operations as set forth under *Title 71.* The state department shall:

(a) Administer or supervise all forms of public assistance, child protection and child welfare, including the provision of medical care payments in behalf of recipients of public assistance;

(b) Administer or supervise all child welfare activities, including importation and exportation of children; licensing and supervising of private and local child-caring agencies; the care of dependent, neglected and delinquent children in foster family homes, especially children placed for adoption or those of illegitimate birth;

(c) Give consultant service to private institutions providing care for the needy, indigent, handicapped or dependent adults;

(d) Develop and *cooperate* with other state agencies provisions for services to the blind, including the prevention of blindness, the location of blind persons, medical services for eye conditions and vocational guidance and training of the blind;

(e) Provide services in respect to organization and *supervise* county departments *of public welfare and county boards of public welfare* in the administration of public welfare functions, *and for efficiency and economy;*

*(f)* Assist and *cooperate* with other state and federal departments, bureaus, agencies and institutions, when so requested, by performing services in conformity with the purposes of this act.

*(g) Administer and supervise all federal funds allocated to this state and all state funds appropriated to this state department for the activities set forth in Title 71. The state department shall do all things necessary, in conformity with federal and state law, for the proper fulfillment of the purposes set forth in Title 71.*

*(2) The state department may:*

*(a) Purchase, exchange, condemn, or receive by gift, either real or personal property which is necessary to carry out its functions under Title 71. Title to property obtained under this subsection shall be taken in the name of the state of Montana, for the use and benefit of the state department.*

*(b) Contract with the federal government to carry out its functions under Title 71. The state department may do all things necessary in order to avail itself of federal aid and assistance."*

Section 21. There is a new section to be numbered 71-210.1, R.C.M. 1947, which reads as follows:

71-210.1. **Public assistance personnel.** The state department shall (1) maintain a merit system pertaining to qualifications for appointment, terms of office, annual merit rating, releases, promotions, and salary schedules for all public assistance personnel. The state department shall



have examinations held from time to time throughout the state to establish and furnish to county departments lists, in order of merit, of persons eligible for appointment. Personnel standards shall conform as far as possible with general standards established or required by the federal government.

(2) Develop policies relating to educational leave of employees, and to staff development needs.

(3) Supervise the appointment, dismissal, and entire status of the public assistance personnel attached to county boards in accordance with the merit system. All public assistance personnel shall be residents of this state, unless it is impossible to find residents of this state possessing qualifications required by the merit system. If possible, county assistance personnel shall be residents of the county in which they work.

Section 22. Section 71-218, R.C.M. 1947, is amended to read as follows:

"71-218. **Department — functions.** County departments *are* under the supervision of *the state department* and subject to audit by the state department."

Section 23. Section 71-222, R.C.M. 1947, is amended to read as follows:

"71-222. **Millage taxes to be levied — expenditures — budgets.** *(1) The* board of county commissioners in each county *shall* levy seventeen (17) mills for the county poor fund as provided by law, or so much thereof as may be necessary. The board shall budget and expend so much of the funds in the county poor fund for all purposes of this act as will enable the county welfare department to pay the general relief activities of the county and to reimburse the state department for the county's proportionate share of the administrative costs of the county welfare department and of all public assistance and its proportionate share of any other welfare activity that may be carried on jointly by the state and the county.

*(2)* The amounts set up in the budget for the reimbursements to the state department shall be sufficient to make all of these reimbursements in full. The budget shall make separate provision for each one of these public assistance activities, and proper accounts shall be established for the funds for all such activities.

*(3)* As soon as the preliminary budget provided for in section 16-1903 has been agreed upon, a copy thereof shall without delay be mailed to the state *department,* and at any time before the final adoption of the budget, *the department shall* make such recommendations with regard to changes in any part of the budget relating to the county poor fund as *considered* necessary in order to enable the county to discharge its obligations under the Public Welfare Act.

*(4)* The state *department* shall promptly examine the preliminary budget in order to ascertain if the amounts provided for reimbursements to the state department are likely to be sufficient, and shall notify the county clerk of his findings. *The* board *shall* make such changes in the amounts provided for reimbursements, if any are required, that the county will be able to make the reimbursements in full.

*(5)* The board of county commissioners *may* not make any transfer from the amounts budgeted for reimbursing the state department without having first obtained a statement in writing from the state *department* to the effect that the amount to be transferred will not be required during the fiscal year for the purposes for which the amounts were provided in the budget.

*(6)* No part of the county poor fund, irrespective of the source of any part thereof, *may* be used directly or indirectly for the erection or improvement of any county building so long as the fund is needed for general relief expenditures by the county or is needed for paying the county's proportionate share of public assistance, or its proportionate share of any other welfare activity that may be carried on jointly by the state and the county. *Expenditures* for improvement of any county buildings used directly for care of the poor may be made out of any moneys in the county poor fund, whether such moneys are produced by seventeen (17) mill levy provided for in paragraph one (1) of this section or from any additional levy authorized or to be authorized by law. Such expenditure shall be authorized only when any county building used for the care of the poor must be improved in order to meet legal standards required for such buildings by the *department* of health *and environmental sciences*, and, when such expenditure has been approved by the state department."

Section 24. Section 71-223, R.C.M. 1947, is amended to read as follows:

"71-223. **(1) Right of appeal.** If an application for assistance under *Title 71, except for benefits under chapter 19 pertaining to veterans' welfare,* is not acted upon promptly or if a decision is made with which the applicant or recipient is not satisfied, he may appeal to the board of *social and rehabilitation appeals* for a fair hearing by addressing a request for *a hearing* to the state department. The board *of social and rehabilitation appeals* shall, upon receipt of *a request for a hearing,* give the applicant or recipient prompt notice and opportunity for a fair hearing. *A* county welfare board *which is involved in a grievance* shall be represented at such *a* hearing.

*(2)* The state *department* may, upon its own motion, review any decision of a county welfare board, and may consider any application upon which a decision has not been made by the county board within a reasonable time from the filing thereof. The state *department* may *have an* additional investigation made, and shall make *a* decision as to the granting of assistance and the amount of assistance to be granted the applicant as in its opinion is justified and in conformity with the provisions of this act.

*(3) If* the state *department reviews* a county decision on its own motion, applicants or recipients affected by *the* decisions of the state *department* shall, upon request, be given reasonable notice and *an* opportunity for a fair hearing by the board *of social and rehabilitation appeals.*

*(4)* All decisions of the state *department or the* board *of social and rehabilitation appeals are* final and *are* binding and shall be complied with by the county department."



Section 25. Section 71-228, R.C.M. 1947, is amended to read as follows:

"71-228. **Revocation of assistance.** If the county or state departments have reason to believe, by reason of a complaint or otherwise, that public assistance under *Title 71* has been improperly granted, it shall *have* an investigation made. If it appears as a result of *an* investigation that the assistance was improperly granted, the state department shall notify the county department that no further payments shall be authorized for such recipient. The right of appeal is granted recipients whose assistance has been revoked."

Section 26. Section 71-229, R.C.M. 1947, is amended to read as follows:

"71-229. **Assistance not assignable nor subject to legal process.** *Except as otherwise provided in Title 71, assistance* granted under *Title 71 is* not transferable or assignable, at law or in equity, and none of the money paid or payable under *Title 71 is* subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law."

Section 27. Section 71-306, R.C.M. 1947, is amended to read as follows:

"71-306. **Right of hearing.** Individuals or committees with complaints or grievances *concerning assistance may* present their complaints or grievances to either the county board or the state department and due consideration shall be given all proven facts presented by *the* individuals or committees. *The* county board or the state department shall *take action to* relieve situations *brought to their attention under this section* to the extent of funds available."

Section 28. Section 71-307, R.C.M. 1947, is amended to read as follows:

"71-307. **Relief by check or disbursing orders.** *(1)* All relief disbursements by county departments of public welfare shall be by warrant or check. *However,* if the county welfare department finds that a recipient is in the habit of dissipating relief allowances instead of using them for the purposes intended, or that for any other reason it is better for the recipient and his family to receive the allowance through disbursing orders, then disbursing orders shall be used instead of cash payments; but all such disbursing orders must be written in such form that the goods and merchandise to be provided may be furnished by any regular dealer in such goods and merchandise within the county. *If* the county has work available which a recipient of general relief is capable of performing, then the county department of public welfare may require the recipient to perform *the* work at the prevailing rate of wages paid by that county for similar work to be paid from the county poor fund in place of granting him general relief.

*(2)* The county department of public welfare shall provide coverage under the Workmen's Compensation Act for those recipients of general relief working under the provisions hereof, and *may* enter into such

agreements with the *division of workmen's compensation of the department of labor and industry* as may be necessary to carry out the provisions of this section.

*(3)* Any recipient of general relief who is subject to the provisions of this section and who without cause refuses to perform work assigned to him as herein provided, shall lose his eligibility for general relief for one (1) week for each refusal."

Section 29. Section 71-308, R.C.M. 1947, is amended to read as follows:

"71-308. **Medical aid and hospitalization.** *(1)* Medical aid and hospitalization for persons unable to provide such necessities for themselves are the legal and financial duty and responsibility of the board of county commissioners, except as otherwise provided in other parts of this act, payable from the county poor fund. *The* board of county commissioners *shall* make provisions for competent and skilled medical or surgical services as approved by the *department* of health *and environmental sciences* or the state medical association, or in the case of osteopathic practitioners by the state osteopathic association or chiropractors by the state chiropractic association, or optometrical services as approved by the Montana optometric association, and dental services as approved by the dental association. "Medical" or "medicine" as used in this act refers to the healing art as practiced by licensed practitioners.

*(2)* In automobile accident cases wherein transients traveling through *this* state are injured, medical aid and hospitalization shall be paid for by the county wherein the accident occurred and the *state* department shall reimburse each county in full upon proper claim being made to the *state* department. *In* all other accident cases wherein such transients are injured, medical aid and hospitalization shall be paid for by the county wherein the accident occurred and the *state* department shall reimburse *the* county for one-half *(½)* of *the* medical aid and hospitalization paid by *the* county, upon proper claim being made to the *state* department.

*(3)* The board, in arranging for medical care for those unable to provide it for themselves, may have the care provided by the physicians appointed by *the* board who shall be known as county physicians or deputy county physicians, and may fix a rate of compensation for the furnishing of *the* medical attendance.

*(4)* The board of county commissioners shall *make* suitable arrangements to provide respectable burial for those for whom such expenses are not otherwise available."

Section 30. Section 71-501, R.C.M. 1947, is amended to read as follows:

"71-501. **"Dependent child" defined.** *(1)* The term "dependent child" means a child *(a)* under the age of eighteen (18), or *(b)* under the age of twenty-one (21) who is a student under the regulations prescribed by the state department and such children (*a* and *b* above) who have been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and



who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, nephew, niece, or first cousin, in a place of residence maintained by one or more of such relatives as his or their own home.

*(2)* Aid to dependent children *may* not be denied to or for the care of children who would otherwise be entitled to such aid under the laws of *this* state by the fact that *the* child is living in the home of his or her father, who is in the opinion of the county board of public welfare of the appropriate county either unemployable or who is honestly and responsibly seeking proper employment and is unable to find such employment nor by the fact that *the* child is living in the home of a head of a household who is, at the time, receiving job training under the laws of *this* state; nor shall the benefits which would otherwise accrue to *the* child for aid to dependent children under the laws of the state be reduced by reason of any such cause.

*(3)* Primary factors in determining whether a father is honestly and responsibly seeking employment *include* his willingness to register for employment with the *department of labor and industry* if *that department* has a representative in his county of residence, and his willingness to accept employment in which he is able to engage which will increase his ability to maintain himself and his family.

*(4)* The state department of *social and rehabilitation services* may establish additional criteria for determining whether a father is honestly and responsibly seeking employment."

Section 31. Section 71-708, R.C.M. 1947, is amended to read as follows:

"71-708. **Powers and duties of the state department.** Subject to the authority and regulations of the state department and in *cooperation* with the federal *government*, the state department shall:

*(1) Adopt rules necessary to carry out the purposes of this chapter;*

*(2)* Administer or supervise all child welfare activities of the state except *the* child welfare activities *which* are administered by the *department* of health *and environmental sciences."*

Section 32. Section 71-709, R.C.M. 1947, is amended to read as follows:

"71-709. **Duty to strengthen child welfare services.** The state department shall make provision for establishing and strengthening child welfare services, including protective services and for care of children in family foster homes. When funds are available for that purpose, the *state department may* make agreements for the payment of compensation for keeping children in family foster homes."

Section 33. Section 71-1401, R.C.M. 1947, is amended to read as follows:

"71-1401. **Definitions.** As used in this act:

*(1)* "Vocational rehabilitation" and "vocational rehabilitation services"

mean any services, provided directly or through public or private instrumentalities, found by the *state department of social and rehabilitation services* to be necessary to compensate a blind individual for his employment handicap, and to enable him to engage in a remunerative occupation including, but not limited to, medical and vocational diagnosis, vocational guidance, counseling and placement, rehabilitation training, physical restoration, transportation, occupational and business licenses, tools, equipment, initial stocks and supplies, including livestock, capital advances, maintenance, and training books and materials.

*(2)* "Rehabilitation services" means any services, provided directly or through public or private instrumentalities, found by the *state department of social and rehabilitation services* to be necessary to compensate a blind individual for his employment handicap or to enable him to achieve the maximum degree of self-care and to engage in productive tasks.

*(3)* "Rehabilitation training" means all necessary training provided to a blind individual to compensate for his employment handicap including but not limited to, manual, preconditioning prevocational, and supplementary training and training provided for the purpose of achieving broader or more remunerative skills and capacities.

*(4)* "Physical restoration" means any medical, surgical or therapeutic treatment necessary to correct or substantially reduce a blind individual's employment handicap within a reasonable length of time including, but not limited to, medical, psychiatric, dental and surgical treatment, nursing services, hospital care, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment for acute or transitory conditions.

*(5)* "Prosthetic appliance" means *an* artificial device necessary to support or take the place of a part of the body or to increase the acuity of a sense organ.

*(6)* "Occupational licenses" means *a* license, permit, or other written authority required by any governmental unit to be obtained in order to engage in an occupation.

*(7)* "Business licenses" means any license, permit, or other written authority required by any governmental unit to be obtained in order to engage in a business.

*(8)* "Maintenance" means money payments not exceeding the estimated cost of subsistence during the provision of vocational rehabilitation and rehabilitation services.

*(9)* "Blind individual" means an individual whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees; or who has other eye conditions which render vision equally defective; or who has an eye condition which will cause blindness."

Section 34. Section 71-1404, R.C.M. 1947, is amended to read as follows:



"71-1404. **Administration.** *The* state department shall provide the services authorized by this act to blind individuals determined by *it* to be eligible therefor and, in carrying out the purposes of this act the department may, among other things:

*(1) Cooperate* with other departments, agencies, and institutions, both public and private, in providing the services authorized by this act to blind individuals, in studying the problems involved therein, and in establishing, developing, and providing, in conformity with the purposes of this act, such programs, facilities and services as may be necessary or desirable;

*(2) Enter* into reciprocal agreements with other states to provide the services authorized by this act to residents of the states concerned;

*(3) Conduct* research and compile statistics relating to the provision of services to or the need of services of blind individuals;

*(4) Take other action necessary or appropriate to carry out this act."*

Section 35. Section 71-1407, R.C.M. 1947, is amended to read as follows:

"71-1407. **Gifts.** The *department shall* accept and use gifts made unconditionally by will or otherwise for the purposes of this act. Gifts made under such conditions as in the judgment of the state *department* are proper and consistent with the provisions of this act may be so accepted and shall be held, invested, reinvested, and used in accordance with the conditions of the gift."

Section 36. There is a new section to be numbered 71-1901, R.C.M. 1947, which reads as follows:

71-1901. **Definition.** Unless the context requires otherwise, in this chapter, "board" means the board of veterans' affairs provided for in section 82A-1905.

Section 37. Section 77-1002, R.C.M. 1947, is renumbered section 71-1902 and is amended to read as follows:

"*71-1902.* **Duty of board.** *The board* shall establish a state-wide service for discharged veterans and their families; actively *cooperate* with state and federal agencies having to do with the affairs of veterans and their families; and promote the general welfare of all veterans and their families. *Employees of the board* must be residents of *this* state. All male employees of the *board* shall have served in the military forces of the United States during World War I, World War II, the Korean War, or the Vietnam Conflict, and shall have been honorably discharged therefrom; whenever possible female employees shall also be persons honorably discharged from service during World War I, World War II, the Korean War, or the Vietnam Conflict; preference for *employment* shall be given to disabled veterans."

Section 38. Section 77-1005, R.C.M. 1947, is renumbered section 71-1903 and is amended to read as follows:

"*71-1903.* **Acknowledgments — officers.** *(1)* The *board* may pro-

vide for a seal. The members and employees of the *board may* take acknowledgments, depositions, and administer oaths and affirmations in any matters connected with the affairs of the *board* or with the official duties of the members or employees of the *board.*

*(2) The board shall select from its membership, a chairman, a vice chairman, and a secretary."*

Section 39. Section 77-1006, R.C.M. 1947, is renumbered section 71-1904 and is amended to read as follows:

"*71-1904.* **Aid to be rendered by state, county and municipal officers.** *All* state, county, and municipal officers *shall* render such aid to the *board* as shall be within their power and consistent with the duties of their respective offices."

Section 40. Section 77-1007, R.C.M. 1947, is renumbered section 71-1905 and is amended to read as follows:

"*71-1905.* **Acceptance of money for service forbidden.** *A* member or employee of the *board may not* accept, receive, or charge any money or thing of value for the performance of any service rendered to any veteran or his or her dependents, at any time or in any manner, other than the compensation allowed by law. *A* person who *violates* this section *is* guilty of a misdemeanor."

Section 41. Section 77-1009, R.C.M. 1947, is renumbered section 71-1906 and is amended to read as follows:

"*71-1906.* **Board may accept federal funds.** The *board may* accept from the federal government, or any agencies thereof, any funds made available to carry out purposes within the scope of the activities and commission purposes of the *board* and accept such funds as *the board directs.*"

Section 42. Section 77-1010, R.C.M. 1947, is renumbered section 71-1907 and is amended to read as follows:

"*71-1907.* **Contracts for reimbursing board authorized.** The governor of *this* state and the chairman and secretary of the *board may* sign contracts with the federal government or any agency thereof for the reimbursement of the veterans' welfare commission for any work which the *board* may do for which any federal statute provides reimbursement to the states."

Section 43. Section 82-3504, R.C.M. 1947, is renumbered section 71-2001 and is amended to read as follows:

"*71-2001.* **Functions of state department.** The *state department of social and rehabilitation services* shall:

*(1)* Consult with and advise organized efforts by communities, organizations, associations, and groups that are working toward any forms of assistance to problems of aging.

*(2)* Study and identify problems of aging.

*(3)* Review existing programs for the aging and make recommendations to the governor and the legislature for improvements in such programs.

*(4)* Encourage the sponsorship of community projects which will seek to make optimum use of the time and talents of retired persons."



Section 44. Section 82-3505, R.C.M. 1947, is renumbered section 71-2002 and is amended to read as follows:

"*71-2002.* **Grants and gifts to state department — deposit and availability.** The *state department* may receive on behalf of the state any grant from the federal government or any grant or gift from any source and accept the *grant or gift* so that the title shall pass to the state. All grants, grants-in-aid, or gifts shall be deposited with the state treasurer and shall be continuously available to the *state department.*"

Section 45. There is a new section to be numbered 82A-1901.1, R.C.M. 1947, which reads as follows:

82A-1901.1. **Functions of department.** The department and its units are responsible for administering laws pertaining to public assistance, including, but not limited to:

(1) Dependent and neglected children (Title 10, chapter 5);

(2) Child adoption agencies (Title 10, chapter 7);

(3) Day care facilities for children (Title 10, chapter 8);

(4) Adoptions (Title 61, chapter 2);

(5) County poor (Title 71, chapter 1);

(6) Department's functions and county departments of public welfare (Title 71, chapter 2);

(7) General relief (Title 71, chapter 3);

(8) Old-age assistance (Title 71, chapter 4);

(9) Aid to dependent children (Title 71, chapter 5);

(10) Aid to blind (Title 71, chapter 6);

(11) Child welfare (Title 71, chapter 7);

(12) Disabled persons (Title 71, chapter 12);

(13) Services to the blind (Title 71, chapter 14);

(14) Medical assistance (Title 71, chapter 15);

(15) Vocational rehabilitation and education (Title 71, chapter 18);

(16) Veterans' welfare (Title 71, chapter 19);

(17) Problems of aging (Title 71, chapter 20).

Section 46. Section 82A-1905, R.C.M. 1947, is amended to read as follows:

"82A-1905. **Board of veterans' affairs — composition — qualifications — term — allocated.** (1) *There is a* board of veterans' affairs.

*(2) The board consists of five (5) members appointed by the governor. Not more than one (1) member shall be appointed from a single county. However, a change of residence within the state after appointment does not alter a member's status. All members shall be residents of this state, and shall have been honorably discharged from service in the military forces of the United States in any of its wars. A vacancy occurring on the board shall be filled by the governor, subject to the conditions of this subsection.*

*(3) Each member shall serve for a term of five (5) years.*

*(4)* The board is *allocated* to the department for administrative purposes only as prescribed in section 82A-108. However, the board may hire its own personnel, and section 82A-108(2)(d) does not apply."

Section 47. Wherever the words "state bureau of child and animal protection," "division of child welfare services of the state department of public welfare," "division of child welfare service," "bureau of child protection," "division of child welfare services of the state department of public welfare," or "state department of public welfare" appear in sections 10-503, 10-504, 10-519, 10-521, 10-522, and 71-1511, R.C.M. 1947, the words "state department of social and rehabilitation services" are substituted therefor.

Section 48. Wherever the words "state department of public welfare," "department of public welfare," or "state department of welfare" appear in sections 10-507, 10-524, 61-205, 61-208, 61-209, 61-211, 71-1511, 93-2601-57, and 93-2601-78, R.C.M. 1947, the words "state department of social and rehabilitation services" are substituted therefor.

Section 49. Wherever the words "state department of public welfare," "department of public welfare," "state public welfare department," "state board of public welfare," "board of public welfare," "board," "state board," "state welfare board," "state administrator," "administrator," or "supervisor" appear in sections 10-703, 10-704, 10-705, 10-802, 10-808, 10-809, 71-207, 71-230, 71-234, 71-236, 71-237, 71-239, 71-240, 71-247, 71-250, 71-404, 71-412, 71-509, 71-606, 71-706, 71-901, 71-1202, 71-1205, 71-1406, 71-1408, 71-1409, and 71-1515, R.C.M. 1947, the words "state department" are substituted therefor.

Section 50. Wherever the words "state board," "state department of public welfare," "state board of public welfare," or "state administrator," appear in sections 71-216, 71-217, 71-227, 71-233, 71-242, 71-311, 71-401, 71-503, 71-602, and 71-1201, R.C.M. 1947, the words "state department" are substituted therefor.

Section 51. The publishers of the Revised Codes of Montana, 1947, are directed, under the supervision of the supreme court of Montana, to make the substitutions enumerated in sections 47, 48, 49, and 50 of this act, when reprinting sections or portions of sections of the Revised Codes in either supplements to or replacement volumes for the Revised Codes.

Section 52. Sections 10-505, 41-802, 41-804, 41-807, 41-809, 41-811, 41-814, 41-815, 71-201 through 71-206, 71-208, 71-209, 71-220, 71-224, 71-225, 71-232, 71-310, 71-603, 71-707, 71-801, 71-902 through 71-904, 71-1101 through 71-1107, 71-1402, 71-1403, 71-1410 through 71-1415, 71-1513, 71-1523, 77-1001, 77-1008, 77-1011, 82-3501 through 82-3503, 82A-1902 through 82A-1904, 82A-1907, and 82A-1908, R.C.M. 1947, are repealed.



Approved March 11, 1974

## CHAPTER NO. 122

AN ACT ALLOWING POLICEMEN AND HIGHWAY PATROLMEN TO SECURE SOCIAL SECURITY COVERAGE, AMENDING SECTIONS 59-1102.1 AND 59-1108, R.C.M. 1947.

*Be it enacted by the Legislature of the State of Montana:*

Section 1. Section 59-1108, R.C.M. 1947, is amended to read as follows:

"59-1108. **Persons excepted from act.** This act shall not apply to, and there shall be excluded from the operation thereof, all employees of the state and of the political subdivisions thereof operating under the provisions of any retirement plan for firemen."

Section 2. Section 59-1102.1, R.C.M. 1947, is amended to read as follows:

"59-1102.1. **Referendum and certification.** (a) Pursuant to section 218 (d) (6) of the Social Security Act, the public employees' retirement system of the state of Montana shall, for the purposes of this act, be deemed to constitute a separate retirement system with respect to the state and a separate retirement system with respect to each political subdivision having positions covered thereby. With respect to employees of the state the governor is empowered to authorize a referendum, and with respect to the employees of any political subdivision he shall authorize a referendum upon request of the governing body of such subdivision; and in either case the referendum shall be conducted, and the governor shall designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d) (3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under this act. The notice of referendum required by section 218(d) (3) (C) of the Social Security Act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this act.

*(b) Pursuant to section 218 (p) (1) of the Social Security Act, the highway patrolmen's retirement system of the state of Montana, and the public*